

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FOX INDUSTRIES, INC.,

Plaintiff,

-against-

OPINION AND ORDER
03 CV 5166 (SJF)(WDW)

LEONID GUROVICH, et al.,

Defendants.

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FEUERSTEIN, J.

I. Introduction

Plaintiffs Fox Industries, Inc. (“Fox”) and Charles E. Richardson (“Richardson”) (collectively “Plaintiffs”) commenced this action against defendants Leonid Gurovich (“Gurovich”), Delta Balls, LLC (“Delta”), STR Industries, LLC (“STR”), John Does 1-100, and XYZ Corps, alleging, *inter alia*, that Gurovich, Delta and STR misappropriated trade secrets and breached a settlement agreement. Fox subsequently filed a Second Amended Complaint adding defendants Cynthia Graceffo (“Graceffo”) and Titon Industries, LLC. On December 30, 2008, this case was reassigned from Judge Thomas C. Platt to this Court.

By Order dated February 17, 2009, this Court: (1) stayed the motion of Graceffo for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing the Second Amended Complaint as to her and on her counterclaim for abuse of process; (2) granted the cross-motion of Plaintiffs to dismiss the counterclaim of Graceffo; (3) denied the motion of Fox for voluntary dismissal pursuant to Rule 41(a) of the Federal Rules of Civil Procedure to the extent that it seeks attorney’s fees and costs; and (4) directed Fox to show cause on or before

February 27, 2009 why Fox's motion for voluntary dismissal should not be granted with prejudice. By letter dated February 19, 2009, Fox informed the Court that it consents to a voluntary dismissal with prejudice.

II. Conclusion

In light of Fox's consent to voluntary dismissal of this action with prejudice, this case is dismissed with prejudice for the reasons set forth in the Order dated February 17, 2009, and the motion of Graceffo for summary judgment is denied as moot. The Clerk of Court is directed to close this case.

SO ORDERED.



Sandra J. Feuerstein
United States District Judge

Dated: Central Islip, New York
February 19, 2009